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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----x

4 UNITED STATES OF AMERICA,

5 v.

17 Cr. 47 (DC)

6 MAHMOUD THIAM,

7 Defendant.

Trial

8 -----x
9 New York, N.Y.
10 April 24, 2017
11 9 :28 a.m.

12 Before:

13 HON. DENISE COTE,

District Judge,
and a Jury

14 APPEARANCES

15 JOON H. KIM
16 Acting United States Attorney for the
Southern District of New York
17 BY: ELISHA J. KOBRE
CHRISTOPHER J. DiMASE
18 Assistant United States Attorney

-and-

19 U.S. DEPARTMENT OF JUSTICE
20 BY: LORINDA I. LARYEA

21 LAW OFFICE OF AARON GOLDSMITH, PC
22 Attorneys for Defendant
23 BY: AARON M. GOLDSMITH, ESQ.
MICHAEL DELAKAS, ESQ.

24 ALSO PRESENT: PATRICK KILLEEN, Special Agent, FBI
ALEXANDER BEER, Paralegal Specialist, USAO
KATHERINE BOSLEY, Paralegal Specialist, DOJ
JENNIE CARMONA, Paralegal, LO of Aaron Goldsmith

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1 (Case called)

2 THE COURT: Good morning, everyone.

3 THE DEPUTY CLERK: Is the government ready to proceed?

4 MR. KOBRE: Yes. Good morning, your Honor, Elisha
5 Kobre, Lorinda Laryea, and Christopher DiMase for the
6 government. With us at counsel table is Special Agent Patrick
7 Killeen of the FBI and paralegal specialists Alex Beer and
8 Katherine Bosley.

9 THE DEPUTY CLERK: And for the defendant, are you
10 ready to proceed?

11 MR. GOLDSMITH: Ready, your Honor. Aaron Goldsmith
12 and Michael Delakas on behalf of Mr. Thiam. Ms. Carmona will
13 be with us very shortly.

14 THE COURT: I'm sorry?

15 MR. GOLDSMITH: Ms. Carmona, my paralegal, will be
16 joining us very shortly.

17 THE COURT: Thank you very much.

18 So counsel have been given a copy of the voir dire
19 form, and we're going to mark that as a Court exhibit.

20 THE DEPUTY CLERK: Court Exhibit 1.

21 THE COURT: And let me read for you the very brief
22 introduction I plan to give in this case, and if you have any
23 requests for changes or additions, please let me know.

24 This is the statement I will give to the venire before
25 the voir dire process begins, and it reads as follows:

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1 The defendant in this case is Mahmoud Thiam. During
2 2009 and 2010, he was the Minister of Mines and Geology for the
3 Republic of Guinea. Guinea is a country in West Africa.

4 The indictment asserts that while he held that
5 position, he accepted bribes from a Chinese conglomerate in
6 exchange for using his position to promote the award of mining
7 rights in Guinea to the conglomerate. The law of Guinea
8 prohibits public officials from accepting bribes in connection
9 with the performance of their public duties. United States
10 laws against bribery contain the same kinds of prohibitions.
11 The indictment charges that after Thiam received these bribes,
12 Thiam violated two United States laws prohibiting money
13 laundering by transferring the proceeds of those bribe payments
14 to international banks and into the United States. Thiam is a
15 United States citizen.

16 Mr. Kobre, any requests or objections?

17 MR. KOBRE: No, your Honor.

18 THE COURT: Mr. Goldsmith, any requests or objections?

19 MR. GOLDSMITH: No.

20 THE COURT: Thank you.

21 So we have one remaining issue that I'm aware of and
22 that is a request by defense counsel to have two-way
23 videoconferencing testimony from a witness abroad. The witness
24 is Momo Sakho. And let me give a little context to this
25 remaining legal issue.

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1 The trial was scheduled at a February 13th
2 conference and it was scheduled on that date to begin today,
3 April 24th. The defendant made a request for a speedy trial,
4 and as I've mentioned, this is a little speedier than is
5 customary in the Southern District of New York, but I quickly
6 accommodated his request. And it certainly is well within his
7 rights to request a speedy trial, and that's not an issue.

8 On April 6 or around that date, defense counsel
9 notified the government that it wished to call Mr. Sakho as an
10 expert witness in this case, and it's my understanding that the
11 decision to use Mr. Sakho as an expert witness was made around
12 that time by the defendant and defense counsel. And sometime
13 after that date, Mr. Sakho applied for a visa to come to
14 America from, as I understand it, Guinea, and that visa request
15 was denied. Then defense counsel, as I understand it,
16 requested assistance from the United States Attorney's Office
17 and Department of Justice to see if the visa could be issued.
18 The Department of Justice gave its assistance, and the visa has
19 not been granted. And it's not something within the control of
20 the Department of Justice; a different branch of our government
21 handles visas.

22 So on April 20th, defense counsel filed a motion to
23 take testimony through the videoconference hookup for Mr. Sakho
24 to be an expert witness at this trial because he was unable to
25 obtain a visa to travel to the United States, and that is the

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1 first notice I had that this was an issue.

2 We had our final pretrial conference in this case on
3 Friday, and the colloquy from that conference is on the record.
4 And in the course of that colloquy, defense counsel abandoned
5 his request to call Mr. Sakho as an expert witness and instead
6 substituted a request that he be called as a fact witness at
7 this trial and requested an opportunity to make a submission in
8 support of that application. That request by defense counsel
9 was granted, and defense counsel provided a letter of
10 April 23rd, which is filed on ECF, explaining the basis for
11 the request that Mr. Sakho testify as a lay witness.

12 I have to say, there is a portion of that that
13 suggests that there are still some remnants of expert testimony
14 being sought here. I'm focusing on the proposed testimony
15 about what is a common practice in the mining industry with
16 respect to a joint venture arrangement. But I'll just make
17 that note that the bulk of the presentation is in support of a
18 request that he testify as a lay witness.

19 At the end of the day on April 23rd, the government
20 filed its response. That's also on ECF. And the government
21 contends that the proposed testimony for Mr. Sakho is
22 irrelevant and immaterial and does not meet the Rule 15
23 standard.

24 And before we get to argument on this issue, let me
25 just put some context in terms of the legal standard on the

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1 record.

2 Of course the Sixth Amendment of the Constitution
3 provides that in all criminal prosecutions, the accused shall
4 have the right to be confronted with the witnesses against him,
5 and the common law tradition has been one of live testimony,
6 subject to adversarial testing. *Crawford*, 541 U.S. at 43. The
7 central concern of the confrontation clause is to ensure the
8 reliability of the evidence against a criminal defendant by
9 subjecting it to rigorous testing in the context of an
10 adversary proceeding before the trier of fact. *Maryland v.*
11 *Craig*, 497 U.S. at 845.

12 Of course, these concerns weigh very differently when
13 it is the defendant that seeks to receive testimony without a
14 witness' presence in the courtroom during his criminal trial.
15 *United States v. Gigante*, 166 F.3d 75. The Second Circuit
16 permitted testimony from a crucial government witness via
17 two-way closed-circuit television where the witness was too ill
18 to travel to court. *Ibid* at 79-81. Applying the standard
19 articulated in Rule 15, the court required a showing of
20 exceptional circumstances and that receipt of the testimony
21 would further the interest of justice. *Ibid*. The court
22 warned, however, that closed-circuit television should not be
23 considered commonplace substitute for in-court testimony by a
24 witness. There may well be intangible elements of the ordeal
25 of testifying in a courtroom that are reduced or even

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1 eliminated by remote testimony. *Ibid.*

2 Rule 15, then, is where I must go next. It authorizes
3 a party to move that a prospective witness be deposed in order
4 to preserve trial testimony, and a court may grant the motion
5 because of exceptional circumstances in the interests of
6 justice. We know then from *Gigante* that this Rule 15 procedure
7 which applies to pretrial depositions can also be used when
8 assessing the need for videoconferencing during the trial
9 proceeding itself. Under Rule 15(a), a trial court may, in its
10 discretion, order the deposition of a witness for use at trial
11 whenever, due to exceptional circumstances of the case, it is
12 in the interests of justice. A movant must show that the
13 prospective witness is unavailable for trial, the witness'
14 testimony is material, and the testimony is necessary to
15 prevent a failure of justice. *United States v. Cohen*, 260 F.3d
16 at 78. In *Cohen*, the Court of Appeals found that the district
17 court did not abuse its discretion in denying an adjournment of
18 the trial to depose a witness where the proffered testimony was
19 not relevant to the question of the defendant's guilt. 260
20 F.3d at 78. The Court of Appeals found, in *United States v.*
21 *Johnpoll*, 739 F.2d at 709, that the testimony from the
22 government's witnesses was clearly material since it was
23 unlikely that the defendant could have been convicted without
24 their testimony and therefore permitted such testimony to be
25 taken other than through live testimony in the courtroom during

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1 the trial proceeding.

2 So I'm not going to spend time now trying to define
3 precisely what "materiality" means in the context of a Rule 15
4 proceeding, and if necessary, of course, we'll get into that,
5 but I think the issues that will drive this inquiry at least in
6 the first instance are relevance and the cumulative nature of
7 the testimony. And Mr. Goldsmith, I wanted to make sure, since
8 I heard from the government last, that you had a chance to be
9 heard before I give further guidance to the parties.

10 MR. GOLDSMITH: Thank you, your Honor. I just wanted
11 to highlight for the record that it's been expressed, in my
12 understanding, that of the several factors of Rule 15, the only
13 one in contest is that of materiality. So without
14 extrapolating too much from what has already been said and what
15 I included in my letter of yesterday, the reality of this case
16 is that the fact witnesses that the government are going to
17 present, I believe are going to testify to Mr. Mahmoud Thiam's
18 ability to influence the deal with CIF. Mr. Sakho's testimony
19 is one of very few individuals alive who can rebut that
20 testimony and who can say that Mr. Thiam was not in a position
21 to give the influence at a level that I suspect the government
22 witnesses are going to paint a picture of, in creating or
23 killing this deal, and it is those circumstances, aside from
24 the others I've mentioned in the letter, that are I believe the
25 thrust of the materiality and the necessity of this witness.

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1 THE COURT: So as I understand it, Mr. Goldsmith,
2 there is no dispute by the defense that you can violate the
3 laws against money laundering as charged here by receiving a
4 bribe payment in connection with the transmission of mining
5 rights whether or not you are the final decision maker. You're
6 not arguing that the government has the burden to prove that
7 the defendant is the final decision maker on that decision.

8 MR. GOLDSMITH: I'm sorry. Too many decisions.

9 THE COURT: Okay. So let me just simplify with that
10 background. You are not contending that the government has a
11 burden of proving that it was the defendant's decision whether
12 or not to grant the mining rights.

13 MR. GOLDSMITH: No, I don't necessarily agree with
14 that assertion.

15 THE COURT: As a matter of law.

16 MR. GOLDSMITH: As a matter of law, the witnesses are
17 going to say that in order to effectuate the rights under the
18 agreement, that there were several members of the cabinet that
19 were required to vote on that.

20 THE COURT: Yes. But you're not suggesting that the
21 law requires the government to show that the defendant was the
22 sole or final decision maker.

23 MR. GOLDSMITH: No, I'm not suggesting that.

24 THE COURT: Okay. So is the government disputing that
25 others were involved or had responsibility with respect to

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1 making the final or ultimate decision about giving Guinea's
2 mining rights to the conglomerate?

3 MR. DiMASE: The government does not dispute that
4 there were other parties involved in that decision-making
5 process, and the government agrees with the Court and I think
6 the Court very appropriately summarized the substance of the
7 Guinean antibribery law. The law doesn't require that a person
8 be the ultimate decision-making authority. The law simply
9 criminalizes the payment of a bribe to influence somebody to
10 perform an act within the scope of their official duties, and
11 Mr. Thiam clearly had a great deal of involvement in this
12 negotiation and the ultimate passage of the deal. The law
13 simply does not require that he was the architect or the final
14 decision maker, and as the government points out in its letter,
15 if the bribery laws were going to be interpreted this way,
16 many, if not almost all, public officials would be exempt from
17 the antibribery laws because only the very top person involved
18 in every decision would be subject to those laws.

19 THE COURT: Okay.

20 MR. GOLDSMITH: If I may, your Honor, I'm not
21 suggesting a carveout. What I'm arguing is that what I put in
22 my letter is that the government witnesses in this case -- we
23 don't have a cooperating witness. We don't have direct
24 evidence of someone who was in a room who can say, I saw the
25 discussions between Mr. Thiam and Mr. Pa and they talked about

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1 the bribe. The government is relying upon these Guinean
2 governmental witnesses that they're calling to testify about
3 the influence that Mr. Thiam had in his involvement with the
4 CIF deal. They are bringing those witnesses in to develop
5 circumstantial evidence. That could possibly lead a jury to
6 have the opportunity to make a reasonable inference about other
7 circumstantial evidence in the case. So when we are brought to
8 a circumstance where the thrust of the evidence in this case is
9 going to be, for these witnesses, the governmental witnesses, a
10 discussion of Mr. Thiam's influence to allow the government to
11 create a circumstance where it can have the possibility of a
12 reasonable inference, that that is the focus and the necessity
13 for Mr. Sakho to testify as to what the circumstances were in
14 fact in Guinea at the time and as to Mr. Thiam's ability or
15 inability to influence that deal.

16 THE COURT: Well, the defense is not taking the
17 position that as minister of mines, he had no role in this
18 issuance of a contract.

19 MR. GOLDSMITH: Correct.

20 THE COURT: Okay. So what this is is a desire to put
21 before the jury, as I hear it, more nuanced testimony about the
22 extent of the role. Do I capture that right?

23 MR. GOLDSMITH: Yes. I wouldn't quite say it's more
24 nuanced, because I think when the governmental witnesses
25 testify in a manner I suppose they're going to, I think it will

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1 be quite straightforward and quite obvious as to what the
2 issues of fact may be.

3 THE COURT: Okay. But since there's no dispute he had
4 a role, whether or not he did or didn't influence the final
5 decision is not going to be a defense, and I would charge the
6 jury, if that were required, based on how the evidence plays
7 out at trial, indeed, no action need be taken. You can pay a
8 bribe and have it be a criminal act and engage in money
9 laundering in violation of American law even if no contract had
10 been issued. And I don't understand that, as a legal matter,
11 to be disputed, either.

12 So it comes down to, as I understand it, the defendant
13 wishes to call a witness to say that the defendant's influence
14 with respect to this transaction was less significant than what
15 the defense expects, upon its review of the government's 3500
16 material, its witnesses will describe. So the defense fears
17 that the government witnesses from Guinea will describe the
18 defendant as a far more influential person in connection with
19 its ultimate decision and they wish to call someone who will,
20 so to speak, correct the record and say that the defendant was
21 less influential with respect to this decision. Is that a fair
22 characterization, Mr. Goldsmith?

23 MR. GOLDSMITH: Yes.

24 THE COURT: Thank you.

25 MR. GOLDSMITH: And --

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1 THE COURT: So I don't think that meets the test of
2 materiality, okay? But I'm going to do this. I'm going to
3 reserve decision and allow the defendant to renew this
4 application based on the testimony of these witnesses.
5 Obviously this disagreement about the extent of the defendant's
6 influence is not material in a sense that it does not have an
7 impact on whether the defendant was guilty or not. It's not
8 exculpatory. It would be a violation of Guinean law to receive
9 a bribe in connection with this transaction whether or not the
10 defendant had little or no influence. There's no dispute he
11 had a role in connection with the transaction. So the issue is
12 really -- I think nuanced is actually a helpful term, at least
13 for me, in thinking about this. It's a concern about whether
14 the defendant's influence in the transaction will be described
15 accurately, from the defendant's point of view, through the
16 government witnesses. And as a result, I'll let the defendant,
17 after testimony from those witnesses, renew his application if
18 he believes that his cross-examination of those witnesses and
19 the evidence put before the jury at that point in the trial
20 permits him to make an argument that Mr. Sakho's testimony
21 would be material.

22 MR. GOLDSMITH: Thank you.

23 THE COURT: Now there is a caveat here, though,
24 Mr. Goldsmith, and that is, I do not want any delay in this
25 trial.

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1 MR. GOLDSMITH: That was what I was about to say is
2 that the logistics of arranging for a videoconference will not
3 happen very quickly, but as a result of the Court's permission
4 to reserve, we will seek the earliest opportunity to reraise
5 this issue --

6 THE COURT: Well, if he's going to testify, he has to
7 be prepared to testify on Thursday.

8 MR. GOLDSMITH: Right.

9 THE COURT: And so I am not going to delay this trial
10 to address technological issues with respect to
11 videoconferencing.

12 MR. GOLDSMITH: Understood.

13 THE COURT: Okay. Where do we stand with respect to
14 the other defense witness? Is he going to be here on Thursday
15 to testify?

16 MR. GOLDSMITH: Yes.

17 THE COURT: Thank you very much. I very much
18 appreciate that, Mr. Goldsmith, and more than me; the jury.
19 That's the whole point here, obviously. I'm here day in, day
20 out. It's the jury and the fair presentation of the evidence
21 by both the government and the defendant to the jury that has
22 to be my concern and my focus.

23 Good. Let's talk about the number of alternates.

24 Yes, Mr. DiMase.

25 MR. DiMASE: Yes, Judge. There was just the one other

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1 issue regarding the government's letter, the cover letter,
2 request to charge on the issue of the two Guinean bribery
3 offenses being felonies. I believe the Court asked the defense
4 to submit something by yesterday at noon. I didn't see
5 anything in the submission regarding that particular issue.

6 MR. GOLDSMITH: We have no objection to the
7 characterization as a felony.

8 THE COURT: Thank you.

9 I saw something else in the parties' requests to
10 charge, or at least the government's, and that has to do with
11 financial institutions in the United States being FDIC insured.
12 If that's a requirement with respect to money laundering that
13 the definition of a financial institution in the United States,
14 domestic financial institution, is that it has to be FDIC
15 insured, if that's a requirement for money laundering, then the
16 government is going to have to prove that. I'm not going to
17 instruct the jury that any bank is FDIC insured.

18 MR. DiMASE: Your Honor, with respect to that aspect
19 of the jury instructions, that paragraph was addressing the
20 different ways in which the jury could find interstate commerce
21 has been affected. It is not a requirement, to my knowledge,
22 that the bank be FDIC insured. However, if they are and they
23 are involved in the transactions, that can support a finding
24 that interstate commerce has been affected. Obviously, to the
25 extent that there isn't evidence in the trial of FDIC insurance

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1 regarding the banks in question, then it's probably not
2 necessary to instruct the jury on that particular way of
3 finding interstate commerce influence.

4 THE COURT: Are you saying that a transaction through
5 a financial institution in America is not sufficient to support
6 a finding of an effect on interstate commerce unless the bank
7 is FDIC insured?

8 MR. DiMASE: No, your Honor. I'm not saying that.

9 THE COURT: So why are we getting into that?

10 MR. DiMASE: It's probably not necessary, your Honor.

11 THE COURT: Okay. Good.

12 So I'll instruct the jury as a matter of law that the
13 two violations of the two articles of Guinean law with respect
14 to bribery -- I think they're Articles 192 and 194 -- are
15 felony charges under Guinean law. Good.

16 So in terms of peremptories, we need to decide how
17 many alternates we're going to have, and I think I'm going to
18 choose to have four alternates here.

19 MR. KOBRE: That's acceptable to the government.

20 THE COURT: Okay. Good.

21 So does the government have any additional issues to
22 raise?

23 MR. KOBRE: No, your Honor.

24 THE COURT: And Mr. Goldsmith, do you have any
25 additional issues to raise?

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1 MR. GOLDSMITH: No further issues at this time.

2 THE COURT: Good. Thank you so much.

3 So Ms. Rojas is going to tell the jury clerk that
4 we're ready for our venire, and so she'll let you know as soon
5 as they're available.

6 All the benches have to be cleared and those in the
7 courtroom must be seated at the very back of the courtroom so
8 we can seat members of the venire in the benches. Good. And
9 obviously, as soon as we have a jury chosen, there will be
10 plenty of seating area in the courtroom, but I know you'll all
11 cooperate with Ms. Rojas as we get a jury pool.

12 So Ms. Rojas has talked to the jury clerk, and you
13 should feel free to take a 15-minute recess. Be back here at
14 10:15, and we'll get a pool, a venire, as soon as we can.

15 Thanks so much.

16 THE DEPUTY CLERK: All rise.

17 (Recess)

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1 (In open court; jury not present)

2 THE COURT: Please be seated. Bring in the jury. Who
3 is giving the opening statement for the government?

4 MR. KOBRE: Ms. Laryea.

5 MS. LARYEA: I am, your Honor.

6 (Jury present)

7 THE COURT: Ladies and gentlemen, please stand to be
8 sworn.

9 (A jury of twelve and four alternates was impaneled
10 and sworn)

11 THE COURT: I have some opening remarks for you, and
12 then we'll turn to the parties' opening statements.

13 As I mentioned already, the judge and the jury have
14 separate roles in our American system of justice. My job is to
15 instruct you as to the law that governs and controls this case,
16 and I will largely give you those instructions at the very end
17 of the trial. Your job, as jurors, is to determine all the
18 fact issues based on the evidence presented during the course
19 of this trial. You are the only triers of the fact issues, and
20 your decisions on the factual issues will determine the outcome
21 of this trial, so please don't take anything that I say or do
22 during the course of the trial as indicating that I have a view
23 as to what your decision should be. I have no view. I'm going
24 to be taking lots of notes, but it's for me to do my job. It
25 has nothing to do with your job.

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1 Now, I know you're going to pay close attention to all
2 the evidence that comes in during the course of this trial, so
3 let me describe to you what the evidence consists of. The
4 first thing it consists of is the testimony given by the
5 witnesses from this witness stand, under oath, in this
6 courtroom. This is the evidence from the witnesses, their
7 testimony. Another kind of evidence is documents or exhibits
8 that are received into evidence. There may also be in this
9 case a third kind of evidence, stipulations -- that is,
10 agreements that the parties have reached among each other or
11 between each other. That's it. That's all there is to the
12 evidence.

13 Let me describe to you some things that are not
14 evidence and cannot be the basis of your verdict. Statements
15 made by counsel, arguments made by counsel are not evidence.
16 They're going to make opening statements to you. They're going
17 to make closing arguments to you. They're going to pose
18 questions to witnesses. None of that is evidence.

19 Occasionally, the lawyers will object to a question
20 that another lawyer asks. They're just doing their duty. If I
21 sustain the objection, that means the witness can answer -- if
22 I sustain the objection, that means the witness cannot answer.
23 If I overrule the objection, that means the witness can answer.

24 Now, if there's any testimony given when I sustain an
25 objection, it's not part of the record and should be

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1 disregarded by you. On occasion, I may strike evidence from
2 the record. Also, that means it's not part of the evidence in
3 this case and you cannot rely on it in reaching your verdict.

4 Of course, anything you've read or heard or seen
5 outside this courtroom is not evidence and may not be
6 considered by you.

7 You know, I told you just a moment ago that the
8 questions that the lawyers put to a witness are not evidence,
9 and that's true, but that doesn't mean you wouldn't pay close
10 attention to the question, because obviously by listening to
11 the question, it gives you context to the witness's answer. So
12 while the answer is the evidence and the question is not,
13 listen carefully to the question so you can understand what the
14 answer means.

15 One of the important jobs you'll have as a juror is
16 deciding on the credibility or believability of the witnesses.
17 I'm going to give you more instructions about that at the end
18 of the case, so let me just say a few brief things now. The
19 bottom line is you can use the same tests here that you use in
20 your everyday life when you decide whether you can rely on
21 something someone has told you. You can ask, Did they have a
22 motive to tell you about events truthfully or falsely? Did
23 they seem to have a good recollection of the events? Did what
24 they say fit in with other things that you know; did it make
25 sense when you consider the whole picture? You can use those

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1 same tests when considering the credibility of the witnesses
2 who will testify here.

3 Sometimes, of course, it's not what a witness says but
4 how a witness says something that is important to you in
5 deciding whether or not it's believable.

6 Now, as the trial progresses, you're going to start to
7 get some impressions about what might have happened. I'm going
8 to ask you to do something that's really very hard. I'm going
9 to ask you to keep an open mind, because the evidence can only
10 come in one piece at a time, one witness at a time, one
11 document at a time. And I think you'll discover that sometimes
12 your impressions of what happened shift. Sometimes you have an
13 impression about what happened when you listen to a witness's
14 testimony on direct examination, and then you hear
15 cross-examination and you get a very different view. Sometimes
16 you think you have an impression based on one witness's
17 testimony, and later on in the trial, you hear testimony from
18 another witness and get a very different impression, so it's
19 only fair that you keep an open mind until all the evidence is
20 in and you have a complete basis to make a judgment about what
21 happened here.

22 Now, there are a couple of rules that we follow to
23 make sure that you're focusing on the evidence and not
24 something you should not focus on, and one of those rules is
25 that you are not to discuss this case with anyone, even with

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1 each other, during the trial. You may only discuss this case
2 with each other when it comes time to deliberate, at the end of
3 the trial. And why do we have that rule? It's a hard rule to
4 follow, but it's a very important rule. We have that rule
5 because we know from human experience if you begin to discuss
6 the case, you're going to present a point of view, you're going
7 to defend that point of view, you're going to argue about that
8 point of view, and we do not want you to do that. We want you
9 to keep an open mind until you have all the evidence and can
10 make a fair and reliable assessment of what happened here. So
11 tell your friends and family tonight that you've been chosen to
12 serve as a juror on a criminal case in federal court, but the
13 judge, Judge Cote, has told you you may not discuss the case at
14 all until it's over. And when it's over, you'll tell them all
15 about it. OK?

16 You're also not to do any research. You're not to
17 read anything about this case or anything about the country of
18 Guinea or mining rights or any participants in this trial.
19 You're not to go on the Internet and do any research. You are
20 to rely on the lawyers to present the evidence that you need
21 during the course of this trial, when all of us are gathered
22 together to hear that same body of evidence. It's on that and
23 nothing else that you must render your verdict.

24 Now, if someone approaches you during the course of
25 this trial and wants to ask you a question or something, just

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1 tell them, kindly, that Judge Cote has said that you can't
2 discuss the case, but then tell Ms. Rojas, because I may have
3 some additional instructions for you if someone's approached
4 you to talk about the case.

5 Now, because I don't want anyone to talk to you about
6 the case, if you pass the lawyers or anyone participating in
7 this trial in the hallway, they are not going to wish you good
8 morning, they're not going to wish you a good night. They're
9 not going to say anything to you, and they're not being rude.
10 They're just following my instructions to have no contact with
11 you outside of this courtroom when I am on the bench and able
12 to preside over these proceedings.

13 Now, this is a public courtroom. People can come here
14 and watch our proceedings. That's how it works in America, but
15 if you know someone who's coming to watch this trial, that's
16 just fine. Just let Ms. Rojas know, though, because then I may
17 have some additional instructions for you.

18 The bottom line is, the point of all of this is that
19 the parties are entitled to have a jury render a decision based
20 solely on the evidence that comes in during the course of this
21 trial, and nothing else. They want a fair jury. They want an
22 impartial jury. They want a jury discussing and thinking about
23 the evidence that comes in during the course of this trial in
24 this courtroom.

25 Let me talk a little bit about trial procedure. The

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1 lawyers are going to have opening statements for you. They're
2 going to be fairly brief, but they're important. They are the
3 opportunity for the lawyer to sort of give you a preview of
4 what they think the evidence will show, because it only comes
5 in witness by witness and document by document, and it's
6 sometimes helpful to have an overview before the trial begins.
7 What they say is not evidence, but it's helpful, and I know
8 you'll give them your attention.

9 Then the government has an opportunity to call its
10 witnesses. I've told you several times already the burden of
11 proof is on the government here. It must prove, to carry that
12 burden, that the defendant is guilty beyond a reasonable doubt
13 of each of the elements of each of the crimes with which he's
14 charged, so the government starts first. It presents its
15 evidence. It calls a witness, it asks that witness questions,
16 and that's called direct examination. Then defense counsel has
17 an opportunity to ask questions. That's called
18 cross-examination, and we go redirect and recross until the
19 witness's testimony is complete.

20 After the government has called all its witnesses,
21 then the defendant has an opportunity to present evidence. The defendant is
22 presumed innocent, but of course, the defendant has an
23 opportunity to call witnesses and present evidence if he wishes
24 to do so. After all the evidence is presented, the lawyers

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1 have a second opportunity to speak to you. That's called
2 closing argument, and summation. Then I'll give you my charge
3 as to the law, and then the jury will deliberate.

4 Let's talk a little bit about our schedule. We're
5 going to meet each day, including Friday, from 9:30 until 5:00
6 to hear testimony. There is a chance that we won't sit this
7 Friday, depending on our schedule, but I can't make that
8 assessment until Wednesday. But you should be prepared to be
9 here every day from 9:30 to 5, Monday through Friday, until the
10 trial ends. I meet with the lawyers at 9:00 so we can discuss
11 legal issues outside your presence so we're ready to proceed
12 promptly at 9:30, so that I ask each of you, please, make every
13 effort to be here on time. Come early. You have the jury room
14 to go to to wait before 9:30, but we cannot begin until all of
15 you are gathered together, and so it's important that each of
16 you make the effort to be here on time. We'll have a luncheon
17 recess each day from 12:45 to 2, a midmorning break and a
18 midafternoon break at a time that seems convenient to one and
19 all. If you need a break in addition at any time if I haven't
20 yet called one, just raise your hand. We're happy to
21 accommodate you and have an additional break. As I said, we'll
22 end promptly each day at 5:00 so you can make your
23 transportation plans in reliance on that.

24 Now, because we're living in the age of the Internet,
25 I have a specific charge for you about the Internet. As I

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Opening - Ms. Laryea

1 mentioned already, you must decide this case -- you who are
2 sworn as jurors -- based solely on the evidence that comes in
3 in this courtroom during this trial, so you can't do any
4 independent research about this case, about the participants in
5 the trial, about the people or entities mentioned during the
6 trial, about any of the events that are discussed in this
7 trial. You can't go on the Internet or websites or blogs or
8 use any electronic tools or reference materials whatsoever
9 concerning this trial. This means you can't look for profiles
10 of any of the people in this case on any social media website.
11 And because I've told you you can't discuss this case, that
12 includes through electronic media. You can't communicate with
13 each other or with anyone by telephone, by email, text
14 messages, Twitter, Facebook, any other media. You may not
15 update your status on any website to tell anyone you're a juror
16 on a trial or to give them any information whatsoever about
17 this trial. Once the trial's over, that's a different matter,
18 but while the trial is on, these rules are very important, and
19 I need you to follow my instructions as to the law to have no
20 such communication with anyone in any way about this trial
21 while it's ongoing.

22 With that, we will turn to the opening statements.
23 The government has the burden of proof here, and of course, as
24 I've told you many times, that burden is on the government
25 during the entire trial. The first opening statement will be

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Opening - Ms. Laryea

1 by the government. Again, it's not evidence, but I know you'll
2 give the government your full attention. Then defense counsel
3 has an opportunity to make an opening statement, if he wishes
4 to do so. Again, that's not evidence, but I'm sure you'll give
5 him your full attention as well if he chooses to make an
6 opening statement.

7 Ms. Laryea.

8 MS. LARYEA: Thank you, your Honor.

9 In 2009, the defendant Mahmoud Thiam, that man, was
10 asked to serve as a government official in the country of
11 Guinea, one of the poorest nations in the world. But instead
12 of honestly serving the people of Guinea, he used this
13 government position to line his own pockets with \$8-1/2 million
14 in bribes. He then spent that bribe money on a mansion in
15 Dutchess County, New York City private schools for his
16 children, and other luxuries. When banks and FBI agents asked
17 him how he made those millions of dollars, he lied, and for
18 spending that money in the United States and for trying to hide
19 the source of that money, the defendant has been charged with
20 the federal crime of money laundering.

21 Ladies and gentlemen, this opening statement is the
22 government's opportunity to present you with an overview, a
23 road map, of the evidence in this case. Over the next few
24 minutes, I will first describe the evidence that proves that
25 the defendant took millions of dollars in bribes and then

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Opening - Ms. Laryea

1 laundered and spent that money here in the United States.

2 Second, I will explain how the government is going to prove
3 that the defendant is guilty of money laundering. So let's
4 start with some background.

5 During the trial, you will hear that the defendant is
6 a U.S. citizen. He lived and worked in Manhattan. He worked
7 as an investment banker. The defendant is also a dual citizen
8 of Guinea, since that is the country of his birth. The
9 Republic of Guinea is located in West Africa and is one of the
10 poorest countries in the world. Many parts of the country lack
11 functioning roads, public transits, electricity, and indoor
12 plumbing. Many of the 12 million people who live there don't
13 have drinkable water or enough food to eat. In one way,
14 though, Guinea is rich, incredibly rich. It has one of the
15 world's largest reserves of minerals: diamonds, gold, and the
16 raw materials used to make aluminum and steel. It is estimated
17 that these minerals are worth billions and billions of dollars.
18 And here is where the defendant comes in.

19 In 2009, the defendant returned to Guinea when he was
20 appointed as its minister of mines. You'll hear that in
21 Guinea, the minister of mines is a cabinet-level government
22 position. It is an extremely important job. You see, as
23 minister of mines, the defendant was entrusted with overseeing
24 Guinea's most valuable assets: the gold, the diamonds, and the
25 other raw materials. As minister of mines, the defendant was

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Opening - Ms. Laryea

1 supposed to serve the people of Guinea and the people of Guinea
2 alone. What the defendant was not supposed to do was use his
3 government position to enrich himself. But that is exactly
4 what he did.

5 You'll hear that in 2009, a Chinese country came to
6 Guinea. Guinea needed money, and the Chinese company wanted
7 access to Guinea's riches. A negotiation began between Guinea
8 and the Chinese company over how and to what extent the Chinese
9 company would get access to Guinea's mines.

10 Now, the defendant was not the only government
11 official in Guinea who was involved in these negotiations, but
12 you'll hear that as minister of mines and one of the few
13 English-speaking, high-level government officials, he was one
14 of the main contacts with the Chinese company and a key player
15 in the deal. You'll hear that in his role as minister of
16 mines, the defendant traveled to Asia to negotiate directly
17 with the leaders of the Chinese company. Back in Guinea, the
18 defendant was a key proponent of the deal. Thanks in part to
19 the defendant's efforts, an agreement was signed in October
20 2009 between Guinea and the Chinese company. That agreement
21 gave the Chinese company exclusive rights to the minerals and
22 mining in Guinea, exclusive rights to the diamonds, the gold,
23 and the other raw materials, exclusive rights that, by
24 definition, no other company had. But ladies and gentlemen,
25 you will learn something else, something very important about

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Opening - Ms. Laryea

1 this agreement.

2 You'll learn that in exchange for helping the Chinese
3 company get exclusive rights to Guinea's vast mineral wealth,
4 the defendant received \$8-1/2 million in bribes. The evidence
5 will show that about two weeks before the signing of the
6 agreement, the defendant opened an account in Hong Kong at a
7 bank located in the very same building where the Chinese
8 company was based, and just one day later, the defendant got
9 his first bribe payment, \$3 million, from the chairman of the
10 Chinese company.

11 Shortly after the agreement was signed, the defendant
12 received another \$5-1/2 million from executives of the Chinese
13 company. When all was said and done, the Chinese company got
14 exclusive rights to Guinea's riches and the defendant got
15 \$8-1/2 million in bribe money.

16 So what did the defendant do with all that money?
17 Remember, the defendant lived here in Manhattan before and
18 after he was Guinea's minister of mines, so he brought the
19 bribe money here. He laundered it. You'll hear that the
20 defendant spent that bribe money to support his lavish
21 lifestyle, luxury hotels, jewelry, clothing, spa treatments,
22 New York City private schools for his children, and a mansion
23 in Dutchess County, New York. He also transferred over a
24 million dollars from his Hong Kong account to his New York bank
25 accounts. And what happened when the defendant transferred the

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Opening - Ms. Laryea

1 money into New York? People asked questions. And the
2 defendant lied to cover his tracks.

3 You'll hear that the defendant did not just tell one
4 lie, he told three different stories. He told one bank that he
5 got that money from his prior business dealings from before he
6 was minister of mines. He told a second bank that he got that
7 money from his prior employment and from selling land in
8 Africa. You'll hear that he never told the banks the truth,
9 that he had gotten the money from the executives of the Chinese
10 company. In fact, he never mentioned the Chinese company to
11 the banks at all.

12 After the defendant was arrested, he told the FBI yet
13 a third story. This time, the defendant admitted that he
14 received money from an executive of the Chinese company, but
15 the defendant claimed that the bribe money was just a loan.
16 You'll hear that the defendant told the FBI it was a loan from
17 people he met just months before, an \$8-1/2 million loan that,
18 according to the defendant, had no documents, no interest, no
19 collateral, and no repayment plan, an \$8-1/2 million loan that
20 the defendant admitted he has never actually paid back, over
21 six years after he got the money.

22 The evidence will show that by taking that bribe, the
23 defendant violated Guinea's laws against corruption, and when
24 the defendant transferred and spent that bribe money here in
25 the United States, he violated our own laws that prohibit

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Opening - Ms. Laryea

1 people from spending and transferring money made from crimes.

2 The defendant also took elaborate steps to hide his use of the
3 money to buy a mansion in Dutchess County. And when he hid the
4 source of that money, the defendant violated our
5 money-laundering laws a second time.

6 So how are we going to prove that the defendant is
7 guilty of money laundering? First, you'll hear witnesses.
8 These witnesses will include a former government official from
9 Guinea who will testify about the critical role the defendant
10 had in the negotiations and the agreement with the Chinese
11 company. You will also hear from witnesses from two banks
12 about the lies the defendant told when he transferred over a
13 million dollars from Hong Kong to his New York bank accounts.

14 Second, you'll see documents. You'll see the actual
15 agreements and the provisions within those agreements that gave
16 the Chinese company exclusive rights to Guinea's riches.
17 You'll also see emails that show the defendant's role in those
18 negotiations.

19 What other evidence will you see of the defendant's
20 scheme? Bank records. You will see the bank records that show
21 the transfer of millions of dollars from the executives of the
22 Chinese company to the defendant. You'll also see records of
23 how the defendant spent those bribe proceeds. You'll also see
24 emails between the defendant and one of his associates plotting
25 the lies that the defendant was going to tell one of the banks

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Opening - Mr. Goldsmith

1 about the money.

2 Third, you'll also hear the defendant's own story
3 about how the \$8-1/2 million was just a loan.

4 Now, the evidence here will not come to you in neat,
5 chronological order. Different witnesses will give you
6 different pieces of the puzzle, but when the trial is over, all
7 those pieces will come together to reveal a story of the
8 defendant's greed, corruption, and lies; that the defendant
9 took \$8-1/2 million in bribes; and that he laundered the money
10 here in the United States. But between now and the end of the
11 trial, we ask you to do three things. First, pay close
12 attention to the witnesses and the evidence; second, follow
13 Judge Cote's instructions on the law; and third, use your
14 common sense, the same common sense that you use every day when
15 making important decisions in your own lives. If you do those
16 three things -- pay close attention to the evidence, follow
17 Judge Cote's instructions, and use your common sense -- at the
18 end of the trial, you will reach the only verdict that is
19 consistent with the evidence, that the defendant is guilty as
20 charged. Thank you.

21 MR. GOLDSMITH: May I, your Honor.

22 THE COURT: Mr. Goldsmith, yes.

23 MR. GOLDSMITH: I agree with the government on a
24 couple of their points. Pay attention to what the witnesses
25 say, follow the laws that the judge gives you at the end of

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Opening - Mr. Goldsmith

1 this trial. When you do that, at the end, you will find only
2 one conclusion: that the government has not proved its case
3 beyond a reasonable doubt against Mr. Thiam; that the
4 government has not proved its case beyond a reasonable doubt
5 that Mr. Thiam accepted bribery payments in Guinea and then
6 took the proceeds of those bribery payments and laundered them
7 through his bank accounts in New York.

8 Ladies and gentlemen, I'm Aaron Goldsmith. We met
9 this morning. My colleagues, Michael Delakas, Jennie Carmona
10 and I have the pleasure of representing Mahmoud Thiam in this
11 particular case. He's a U.S. citizen. You will hear in this
12 case evidence about how Mr. Thiam worked in New York for a
13 number of years. He is a Guinean citizen by birth. He worked
14 his way in New York as an adult; you will hear about the
15 financial industry. You will hear that he became a naturalized
16 U.S. citizen.

17 As you have heard reference to, and you will hear
18 testimony about this case, in the late 2000s, Mr. Thiam was
19 invited to return back to Guinea to become a member of the
20 cabinet there, as the minister of mines, and to help the
21 country of Guinea in that moment, to help the country of Guinea
22 that badly needed resources at the time, regain those resources
23 and build those resources and infrastructure, and as the
24 government pointed out in its opening argument, a country that
25 lacked a lot of logistics, that lacked a lot of infrastructure,

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Opening - Mr. Goldsmith

1 that has a tremendously high population that is impoverished.

2 However, the crux of this case, the aspect of this
3 case that you need to pay the closest attention to, is whether
4 or not Mr. Thiam took a bribe, whether he got paid money to do
5 something or not to do something in that role as minister of
6 mines for the Republic of Guinea in or around 2009, surrounding
7 a deal with a Chinese conglomerate. They don't have a witness
8 for that. They're not going to have a witness for that. You
9 will hear testimony from bank employees about Mr. Thiam opening
10 bank accounts. You'll hear witnesses from banks who will
11 testify about the process of opening those accounts, of
12 answering questions about opening those accounts. You will
13 hear testimony about his receipt of a lot of money in those
14 accounts. But those witnesses cannot tell you what that money
15 is for, why Mr. Thiam got that money.

16 And as you heard the government also tell you, you
17 will hear that he told the FBI that it was a loan from someone
18 in that Chinese company. You will hear testimony about that.
19 You won't hear testimony that it was a bribe. You're going to
20 hear testimony from members of the Guinean government at the
21 time that Mr. Thiam was acting as the minister of mines for
22 that company. They can tell you about this deal between the
23 government and the Chinese conglomerate that included mining as
24 part of it, that also included aspects of building
25 infrastructure as part of it.

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1 You will hear testimony from those witnesses about the
2 roles and responsibilities of certain cabinet ministers, of the
3 discussions and negotiations as part of that deal. You will
4 hear testimony about Mr. Thiam's role in those negotiations.
5 You will not, from any of those government witnesses, hear any
6 testimony that anyone knew and that anyone saw, that anyone
7 heard and that anyone witnessed, that the money that Mr. Thiam
8 got was a bribe.

9 The judge has instructed you preliminarily, but she's
10 going to give you more instructions at the end of this trial,
11 about the burden of proof and about presumption of innocence.
12 You are familiar with it and you will be instructed on it, that
13 the government has the burden to prove every element of the
14 crimes charged against Mr. Thiam beyond a reasonable doubt.
15 They have to prove to all of you beyond a reasonable doubt that
16 the bribe took place, and they can't. They have to prove to
17 you beyond a reasonable doubt every element of the money
18 laundering as it came through related to that bribe, that they
19 cannot prove and will not prove.

20 The government in this case, as you heard, has that
21 burden throughout, and Mr. Thiam is presumed innocent. As you
22 heard the judge say, he pled not guilty in this case. As we
23 sit here today at 4:30 in the afternoon on Monday the 24th, he
24 is not guilty, and he remains not guilty until the government
25 has proven every element, and of the witnesses that they are

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Opening - Mr. Goldsmith

1 going to bring in this courtroom, as they have told you that
2 they are going to bring into this courtroom, they will not be
3 able to satisfy that burden.

4 The government lawyers told you to pay attention to
5 the witnesses, to what they saw, what they heard, what they
6 knew, to pay attention to the documents, the evidence in this
7 case that you can see in front of you and hold and read, to pay
8 attention to all of that and put it together with what the
9 judge instructs on the law. Do that. Go through every witness
10 that the government is going to call up here. Pay attention to
11 what they saw, what they heard, what they read, what they knew.
12 Read the documents that the government's going to introduce.
13 Take the law that the judge gives you, and at the end, I submit
14 you will find that the number of dots that the government wants
15 to connect in this case to show that a bribe took place and
16 that the proceeds of that bribe were brought into the United
17 States, they cannot connect those dots. Those witnesses that
18 they are going to call and the documents that they are going to
19 show you will and cannot connect those dots. And you will at
20 the end find Mr. Thiam not guilty. Thank you.

21 THE COURT: The government may call its first witness.

22 MS. LARYEA: Yes, your Honor. Before the government
23 calls its first witness, the government would like to read two
24 stipulations into the record.

25 THE COURT: What numbers?

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Opening - Mr. Goldsmith

1 MS. LARYEA: Government Exhibit No. 1405 and 1409.

2 "It is hereby stipulated and agreed, by and between
3 the United States of America, by Joon H. Kim, Acting United
4 States Attorney, Christopher J. DiMase and Elisha J. Kobre,
5 Assistant United States Attorneys, of counsel, Andrew
6 Weissmann, chief, fraud section, criminal division, Lorinda
7 Laryea, of counsel, and Mahmoud Thiam, the defendant, and by
8 his counsel, Aaron M. Goldsmith, Esq., that:

9 "1. Google Inc. operates a web-based electronic mail
10 (hereinafter 'email') service known as gmail. In or about
11 January 2015, a search warrant (hereinafter 'the search
12 warrant') issued by a United States magistrate judge for the
13 Southern District of New York was served on Google. The search
14 warrant directed Google to produce all stored emails and other
15 stored content information in the email account
16 mahmoud.thiam@gmail.com. Google complied with the search
17 warrant by providing a true and accurate copy of the stored
18 emails and other stored content information in that account to
19 the Federal Bureau of Investigation in New York, New York.

20 "Government Exhibit 500 is a thumb drive containing
21 true and correct copies of emails from the email account
22 mahmoud.thiam@gmail.com produced by Google in response to the
23 search warrant. Government Exhibits 501 through 506 and
24 Government Exhibits 508 through 545 are certain emails copied
25 from Government Exhibit 500. Government Exhibits 506-T, 509-T,

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1 510-T, 511-T, 512-T, 514-T, 517-T, 519-T, 525-T, 527-T, 530-T,
2 531-T, and 536-T are true and accurate English translations of
3 the French-language portions of the corresponding government
4 exhibits.

5 "Google user information records show that the email
6 account mahmoud.thiam@gmail.com has, since on or about April 8,
7 2005, been registered to Mahmoud Thiam.

8 "It is further stinted and agreed that this
9 stipulation that is marked as Government Exhibit 1405 and
10 Government Exhibits 501 through 506, Government Exhibits 508
11 through 545, and Government Exhibits 506-T, 509-T, 510-T,
12 511-T, 512-T, 514-T, 517-T, 519-T, 525-T, 527-T, 530-T, 531-T,
13 and 536-T may be received in evidence as Government Exhibits at
14 trial."

15 At this time, your Honor, the government offers those
16 exhibits. Would the Court like me to read that again?

17 THE COURT: No. I think twice was enough. 1405 and
18 the enumerated exhibits are received into evidence.

19 (Government Exhibits 1405 and 501-506 received in
20 evidence)

21 (Government Exhibits 508-545 and 506-T, 509-T, 510-T,
22 511-T, 512-T, 514-T, 517-T, 519-T, 525-T, 527-T, 530-T, 531-T,
23 and 536-T received in evidence)

24 MS. LARYEA: Thank you, your Honor. Now for the
25 second stipulation:

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Opening - Mr. Goldsmith

1 "It is hereby stipulated and agreed, by and between
2 the United States of America, by Joon H. Kim, Acting United
3 States Attorney, Christopher J. DiMase and Elisha J. Kobre,
4 Assistant United States Attorneys --"

5 THE COURT: You know what? I should tell everyone,
6 and I apologize, counsel, I didn't tell you this before. I
7 think reading that preliminary once will probably be
8 sufficient. It's in the document.

9 You'll have the document available to you.

10 MS. LARYEA: Great. Thank you, your Honor.

11 THE COURT: Yes.

12 MS. LARYEA: "Government Exhibit 103 is a CD
13 containing true and correct records maintained by J.P. Morgan
14 ChaseBank ("J.P. Morgan") pertaining to J.P. Morgan account
15 number 26722089 and associated savings account number 26297817,
16 both in the name of Mahmoud Thiam, which will be referred to as
17 Thiam J.P. Morgan accounts.

18 "Government Exhibit 104 consists of true and correct
19 due diligence records maintained by J.P. Morgan in connection
20 with the Thiam J.P. Morgan accounts. The information contained
21 in Government Exhibits 103 and 104 was recorded by someone with
22 knowledge at J.P. Morgan at or near the time that the activity
23 took place, was kept in the course of regularly conducted
24 activity of J.P. Morgan, and was made as a regular practice of
25 that activity.

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Aring - Direct

1 "It is further stipulated and agreed that this
2 stipulation, which is marked as Government Exhibit 1409, and
3 Government Exhibits 103 and 104 may be received in evidence as
4 Government Exhibits at trial."

5 At this time, the government offers those exhibits,
6 your Honor.

7 THE COURT: They are received.

8 (Government Exhibits 1409, 103 and 104 received in
9 evidence)

10 MR. KOBRE: The government calls Remi Aring.

11 REMEDIOS ARING,

12 called as a witness by the Government,

13 having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. LARYEA:

16 Q. Ms. Aring, where do you live?

17 A. I live in Dallas, Texas.

18 Q. Are you currently employed?

19 A. No.

20 Q. What do you do? Are you currently retired?

21 A. Yes, I'm retired.

22 Q. When did you retire?

23 A. I retired from Chase in 2014.

24 Q. What did you do before you retired?

25 A. I was an, a senior compliance officer with J.P. Morgan

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Aring - Direct

1 Chase in AML operations.

2 Q. What was your last position at J.P. Morgan Chase?

3 A. As senior compliance officer with the department.

4 Q. When did you begin in that role?

5 A. I started out in October of 2006.

6 Q. What were your responsibilities?

7 A. Mainly are assigned or investigated cases with customer
8 transactions involving money laundering or just unusual
9 transactions.

10 Q. How were those cases brought up to your attention?

11 A. When alerts are escalated into cases, they're created into
12 a case and they are assigned to different case investigators,
13 and one of them is -- and I'm one of the case investigators.

14 Q. You mentioned alerts. What are these alerts?

15 A. Chase generates reports systematically when they list
16 accounts that have transactions that have certain high-risk
17 elements to them, they thought that, you know, transactions
18 that may meet high-risk criteria.

19 Q. Can you give examples of some of these high-risk criteria?

20 A. For example, I got, most common alert are, for instance,
21 cash alerts like are there transactions that are repetitive,
22 cash transactions that are right below the reporting threshold
23 of 10,000 and below, or for instance, cash deposit activity in
24 one state followed by immediate cash withdrawal in another
25 state, or, or something like repetitive wire activity to and

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Aring - Direct

1 from a high-risk jurisdiction. Those are just examples of the
2 many examples of alerts.

3 Q. Why did Chase have this kind of alert system?

4 A. Regulations require us to, require financial institutions,
5 for that matter, to, to watch or investigate or ask questions
6 for potentially suspicious or unusual activity as part of our
7 money-laundering -- AML policies and procedures.

8 (Continued on next page)

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Aring - Direct

1 BY MS. LARYEA:

2 Q. You mentioned AML. What is AML?

3 A. I'm sorry. AML stands for antimoney laundering.

4 Q. What happens after an alert is issued?

5 A. An alert is assigned to various investigation -- alert
6 analysts, and the analyst would then review the alerting
7 account for whatever the reason that they alerted for, do an
8 overall transaction review, and if they're not able to, you
9 know, determine or if there is some activity that cannot be
10 explained, then they deem it escalatable to a case, and at that
11 point then they create the case.

12 Q. Once an alert is escalated to a case, what happens to it?

13 A. The analyst creates a case in our system called HALO, and
14 then the case is assigned to case investigators.

15 Q. You mentioned a system called HALO. What is the purpose of
16 HALO?

17 A. The HALO is if a case -- JPMorgan Chase case management
18 system that, where alert -- the alerts are called events --
19 where events and cases are entered in there, so it becomes like
20 a central repository for -- for the alerts, or the cases that
21 are being investigated.

22 Q. What kind of information is input into HALO?

23 A. Pretty much every type of investigation comments, findings,
24 transactional review; any kind of comments that's relevant to
25 the case investigation.

H4o1thi3

Aring - Direct

1 Q. What kind of work did you do in your time in this period at
2 JPMorgan?

3 A. I was one of the case investigators.

4 Q. You investigated these cases that were escalated?

5 A. That were assigned to me, yes.

6 Q. What did you do when you received a new case?

7 A. First I reviewed the reason that the alert -- or the case
8 was initially -- or why it was escalated, the case, to begin
9 with, and then from there, I -- because assigned to a case, it
10 just means it involves possibly needing to do a deeper dive or
11 further investigation, so I would look at the different systems
12 or download transactions from different transactional databases
13 and look at the customer's profile through different customer
14 records and databases or do some other research on internet,
15 etc.

16 Q. Do you remember an investigation, investigating a matter
17 involving an individual named Mahmoud Thiam?

18 A. Yes.

19 Q. Approximately when was that investigation?

20 A. I believe sometime around March of 2010.

21 Q. As you sit here today, do you remember every single detail
22 about that investigation?

23 A. Not without going through reading my case comments.

24 Q. You mentioned case comments. Did you document the steps
25 and information you gathered in your investigation?

H4o1thi3

Aring - Direct

1 A. Yes.

2 Q. Where did you put that information?

3 A. I would have entered any kind of case findings or comments
4 or any kind of determination in the HALO case management
5 system.

6 Q. When you put that information into the HALO system, did you
7 record that information accurately?

8 A. To the best of my ability, yes.

9 Q. And before testifying today did you review the HALO record
10 of your investigation of Mahmoud Thiam?

11 A. Yes.

12 Q. I'm going to show you what has been admitted as
13 Government's Exhibit 104. Do you recognize that document?

14 A. Yes.

15 Q. What is it?

16 A. This is the case that -- in HALO that I've made notations
17 in as far as the case for Mahmoud Thiam.

18 Q. How did the investigation into Mahmoud Thiam begin?

19 A. I'm sorry?

20 Q. How did the investigation into the defendant begin?

21 A. It began as a -- an alerting event, the subtype of which is
22 account security blanket. Based on the subtype, I'm thinking
23 it's because of an overall -- a spike in the overall activity
24 on the account.

25 Q. Do you remember what kind of activity it was?

H4o1thi3

Aring - Direct

1 A. Due to mostly outgoing and incoming wires and overall, and
2 other little activities.

3 Q. Where were these wires coming in from?

4 A. The -- according to the security blanket comments or
5 analyst comments, that they were from HSBC Bank. The incoming
6 wire credits, you mean?

7 Q. Yes.

8 A. Are from HSBC bank in Hong Kong.

9 Q. Who owned this account that you were investigating?

10 A. The account, the alerting account that we were
11 investigating?

12 Q. Yes.

13 A. Is owned -- was owned by Mahmoud Thiam and a co-owner Fatim
14 Thiam.

15 Q. What was the period of time that your investigation focused
16 on?

17 A. My investigation or the alert analyst's investigation?

18 Q. Your investigation.

19 A. My investigation?

20 Q. What was the period of time of account activity that you
21 were reviewing?

22 A. I reviewed the period from November of 2009 to February
23 2010, 2010.

24 Q. What did you do when you first received this case?

25 A. I reviewed the customer profile from different bank records

H4o1thi3

Aring - Direct

1 and databases, and I also reviewed the transactions on the
2 account, alerting account.

3 Q. What did you determine after doing that initial review?

4 A. I determined that the customer is -- and the account has --
5 has been opened in 1993 and that he has other account
6 relationships with Chase and -- and I reviewed the
7 transactions.

8 Q. As part of your investigation, did you review the account
9 activity in the bank account?

10 A. Yes.

11 Q. Let's start with that account activity. What city was the
12 bank account based in, just the city?

13 A. The city is -- I mean, the account is based in New York.

14 Q. Did you review any incoming wires?

15 A. Yes.

16 Q. Did you document your review of the incoming wires?

17 A. Yes.

18 Q. All right. I'd like to point you to the entry for March 15
19 at 6:29 p.m.

20 MS. LARYEA: Your Honor, permission to publish this
21 section of the HALO records?

22 THE COURT: Yes. You don't need to ask permission,
23 but of course you'll reflect on the record what we're looking
24 at.

25 MS. LARYEA: Yes. At this time the government will

H4o1thi3

Aring - Direct

1 publish the HALO record entry for March 15 at 6:29 p.m.

2 THE COURT: Is there a year associated with this?

3 MS. LARYEA: Yes. March 15, 2010.

4 THE COURT: Ladies and gentlemen, to the extent that
5 you can't read the document, that's fine. That's an attorney's
6 issue. But if there is nothing on your screen, would you
7 please raise your hand.

8 Okay. There is one screen that has nothing on it.

9 Okay. We're going to call technical assistance and hopefully
10 get that fixed. So take it off all screens, please.

11 Okay. Continue your examination.

12 MS. LARYEA: Yes, your Honor.

13 BY MS. LARYEA:

14 Q. What does that entry say about what you found out about the
15 incoming wires?

16 A. The review of the alerting account from November 2009 to
17 February 2010, I find -- I found that there were seven wire
18 credits, high-value wire credits, approximately 800,000,
19 originated by the client, Mahmoud Thiam, from his HSBC account
20 based in Hong Kong.

21 Q. Thank you. Did you notice anything about outgoing wires?

22 A. I noticed similar high-value wires, outgoing wires going
23 to -- to benefit various individuals in United States and to
24 other countries.

25 Q. What did you do after you reviewed this account activity?

H4o1thi3

Aring - Direct

1 A. I researched the -- some more -- I gathered some more
2 information just to determine the client's profile as to the
3 relationship between the customer's account here and the
4 originating funds from Hong Kong. I researched that through
5 the internet and -- and through eventually further contact --
6 or contact with the customer.

7 Q. I want to first discuss the research you did before you
8 spoke to the customer. Did you write down what you discovered
9 in your research?

10 A. Yes.

11 Q. I'd like to point you to the entry for March 16, 2010, at
12 4:21 p.m. What did you find during your research about the
13 defendant's possible occupation?

14 A. Based on research on the internet, specifically, the
15 searches yielded information according to -- indicating the
16 subject is potentially the newly appointed senior foreign
17 government official, specifically, as Guinea mines and energy
18 minister; and as president of the Guinea Development
19 Corporation mining oil and gas; and also as former investment
20 banker, senior VP, UBS New York.

21 Q. What did you do after your internet research?

22 A. I proceeded to review other information regarding the
23 customer on -- again, on the internet, for potential negative
24 media or any other related matter to the customer.

25 Q. You mentioned that you spoke with the customer?

H4o1thi3

Aring - Direct

1 A. Yes. I eventually did contact the customer.

2 Q. Who was the first person you spoke to?

3 A. I -- my first initial -- my initial contact, successful
4 contact was to Fatim Thiam.

5 Q. And remind us, who is Fatim Thiam?

6 A. She is the co-signer or co-owner on the account.

7 Q. And did you document your conversation with Fatim Thiam?

8 A. Yes.

9 Q. I would like to point you to the entry for March 22, 2010,
10 at 12:48 p.m. What is that entry?

11 A. This documents a conversation, the phone conversation or
12 phone interview I -- I had with Fatim.

13 Q. What did you ask her during that phone conversation?

14 A. The first question I asked her was the nature and the
15 purpose of the incoming wire credits of approximately 900,000.

16 Q. What did she say?

17 A. Her response is that this is income of husband.

18 Q. What else did you ask her?

19 A. So I asked her: What is husband's occupation?

20 Q. And what was her answer?

21 A. She responded a financial adviser and consultant for
22 various mining companies worldwide.

23 Q. What else did you discuss?

24 A. I asked her: What is the funding source of the wires from
25 Hong Kong and why is it coming from Hong Kong?

H4o1thi3

1 Q. Why did you ask that question?

2 A. I'm trying to understand the -- the source of the income or
3 what the -- what is the funding source of those wires that came
4 to Chase.

5 THE COURT: So counsel, we're going to end there for
6 the day.

7 Ladies and gentlemen, it's 5:00. I remind you, do not
8 discuss the case. We'll start with this testimony again
9 promptly at 9:30, so please be here before then.

10 Have a good night. Thank you.

11 Please, counsel, be seated.

12 (Continued on next page)

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H4o1thi3

1 (Jury not present)

2 THE COURT: So Mr. Kobre, is there anything we need to
3 discuss?

4 MR. KOBRE: Just one moment, your Honor. If I might
5 just have 30 seconds, 20 seconds?

6 No, your Honor. Thank you.

7 THE COURT: And Mr. Goldsmith, anything we need to
8 discuss?

9 MR. GOLDSMITH: Nothing at this time.

10 THE COURT: Good. See you at 9. Thanks so much.

11 THE LAW CLERK: All rise.

12 (Adjourned to April 25, 2017, at 9:00 a.m.)

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